

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 96012

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-072-96

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
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Regulations Only

Effective Date _____

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Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: LCB R-072-96 (Petition 96012) permanently amends NAC 444.470 to NAC 444.7499 by making an exemption for Class II landfills from ground water monitoring standards as provided by the U.S. Congress. The amendments allow for interim site approval to be revoked if the owner/operator fails to provide adequate permit application documents within one year of notification of application deficiencies. NAC 444.711 is amended to require a system for monitoring moisture in unsaturated zones under certain conditions. The term "wet garbage" is deleted in NAC 444.632.

Authority citation other than 233B: NRS 444.560

Notice date: August 9, August 11, August 20 and August 26, 1996

Hearing date: September 10, 1996

Date of Adoption of Agency: September 10, 1996

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 96012
LCB FILE R-072-96**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 444.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 96012 (R-072-96) was noticed three (3) times: August 9, August 20, and August 28, 1996, in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. Public comment from the White Pine Board of Commissioners was received. They were supportive of the regulatory change. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

2. The number persons who:

- | | | |
|-----|---|----|
| (a) | Attended each hearing; | 35 |
| (b) | Testified at each hearing: | 15 |
| (c) | Submitted to the agency written comments: | 13 |

Note: One written comment (exhibit #2) was received from the White Pine Board of Commissioners and one person testified at the Environmental Commission hearing of September 10, 1996 regarding the solid waste regulations.

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. The Bureau of Waste Management also notified subscribers to its mailing list through the newsletter called "Trash Talk". Testimony was received at the hearing from Silver State Disposal Company. They expressed the need for relief from ground water monitoring requirements at rural landfills, however it is important to have ground water monitoring at any Class I (large community) landfill. They also expressed the need for strong state oversight of local solid waste management authorities. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted at the State Environmental Commission hearing on September 10, 1996, with changes to the regulation. Changes were proposed during adoption of the regulation.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

The proposed regulations will have a positive economic effect on regulated businesses by the reduction in the cost to develop and operate a Class II landfill. The proposed regulation will reduce both immediate and long-term operations of Class II landfills. The elimination of ground water monitoring requirements for Class II disposal sites decrease the total permitting, development and operating costs for small community landfills. This may decrease the overall cost of solid waste disposal in rural Nevada.

The public will see a short term and long term stabilization in the cost to dispose of solid waste at Class II landfills.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will no additional cost to the agency as a result of the addition of the proposed regulations.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agencies which the proposed regulation overlaps or duplicates.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

Regulation is not more stringent than federal regulations.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

No new fee is proposed nor is a fee increased by this regulation.

END OF FILING STATEMENT FOR R-071-96

**ADOPTED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R072-96

EXPLANATION - Matter in *italics* is new; Matter in [] is material to be omitted.

AUTHORITY: NRS 444.560

Section 1. NAC 444.6405 is hereby amended to read as follows:

444.6405 1. Except as otherwise provided in subsection 2, the owner or operator of a disposal site must obtain a permit to operate the site from the appropriate solid waste management authority.

2. The following sites are exempt from the provisions of subsection 1:

(a) Composting bins which are operated at a personal residence for personal use; and

(b) Municipal composting operations for yard wastes.

3. The owner or operator of a proposed disposal site shall obtain a permit before the construction or operation of that site. An application for a permit must be submitted at least 180 days before the anticipated start of construction, to allow sufficient time for the review and issuance of the permit.

4. A disposal site for which a notice of intent to **[either]** close the site by November 8, 1993, or continue operations after November 8, 1993, has not been submitted to the solid waste management authority shall be deemed to be an open dump. Class I sites which are to continue operations after November 8, 1993, must have a permit issued by the solid waste management authority by October 9, 1996. Class II sites which are to continue operations after November 8, 1993, must have a permit issued by the solid waste management authority by October 9, 1999.

5. Interim approval shall be deemed to be granted to an owner or operator who submits a notice of intent to continue operations after November 8, 1993, to the solid waste management authority. The owner or operator to whom interim approval is granted must operate and maintain the site in compliance with all applicable statutes and regulations to maintain that approval.

6. The solid waste management authority may revoke or suspend the interim approval granted pursuant to this section if the owner or operator fails to provide to the authority any documents or other information relating to the application for a permit requested by the authority: Class I sites and October 9, 1999 for Class II sites.

(a) For a class I site, within 1 year after such a request is made or not later than October 9, 1996, whichever is earlier; or

(b) For a class II site, within 1 year after such a request is made or not later than October 9, 1999, whichever is earlier.

7. The interim approval is effective until the site is closed ***pursuant to subsection 4, the interim approval is revoked or suspended,*** or a permit is issued for the site.

Sec 2. NAC 444.641 is hereby amended to read as follows:

444.641 1. A solid waste management authority shall, within 45 days after receiving an application for a permit to operate a disposal site, notify the applicant as to whether the application is complete or deficient in content. A determination of completeness must be based on whether the application contains

all specified documents and supporting information required by NAC 444.677, 444.705 or 444.733, as applicable. The solid waste management authority may require the submittal of any such additional documents or information as it deems necessary [.] ***and may specify the period within which the documents or information must be submitted to the authority.***

2. If the solid waste management authority determines that an application is complete, the authority shall evaluate the merits of the application to determine if the application is in compliance with all applicable statutes and regulations. ***If the solid waste management authority determines that the application does not comply with all applicable statutes and regulations, it shall mail a notice to the applicant. The notice must specify:***

(a) Each statute or regulation with which the applicant has failed to comply;

(b) Any documents or other information which the applicant is required to submit to the authority;

and

(c) The period within which the applicant is required to submit to the authority the documents or other information requested pursuant to paragraph (b).

3. Upon completion of the evaluation, the solid waste management authority shall prepare and issue:

(a) A notice of intent to issue or deny the issuance of the permit. The notice must:

(1) Be sent to the applicant and the local governing body in the area in which the disposal site is to be located, and published in a newspaper of general circulation for the area in which the site is located;

(2) Summarize the action to be taken by the solid waste management authority;

(3) State that the authority will accept comments from the general public for 30 days after the date that the notice is issued; and

(4) Describe the procedure for obtaining copies of the documents and comments submitted with the application.

(b) A factual sheet which describes the proposed facility, the proposed action, the availability of the documents submitted with the application, and the procedure for public review and comment.

Sec 3. NAC 444.6783 is hereby amended to read as follows:

444.6783 1. A Class I site must meet the following safety requirements relating to airports:

(a) An owner or operator of a new or existing municipal solid waste landfill unit or a lateral expansion which is located:

(1) Within 10,000 feet of the end of any airport runway used by a turbojet aircraft; or

(2) Within 5,000 feet of the end of any airport runway used only by piston-type aircraft,

shall maintain proof that the unit or lateral expansion is designed and operated so that it does not pose a hazard to **[birds.] aircraft.**

(b) The owner or operator shall place the proof in the operating record of the municipal solid waste landfill unit and notify the solid waste management authority that the proof has been placed in the operating records.

(c) The owner or operator who proposes to locate a new municipal solid waste landfill unit or lateral expansion within a 5-mile radius of the end of any airport runway used by a turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration.

2. As used in this section:

(a) "Airport" means any public airport.

(b) "Hazard to **[birds]" aircraft**" means an increase in the likelihood of a collision between a bird and an aircraft that may cause damage to the aircraft or injury to its occupants.

Sec 4. NAC 444.705 is hereby amended to read as follows:

444.705 An application for a permit to operate a Class II site or a lateral expansion of a Class II site must be submitted to the solid waste management authority and must include:

1. The name, location and mailing address of the:
 - (a) Site;
 - (b) Owner of the site;
 - (c) Operator of the site; and
 - (d) Authorized agent of the owner.
2. Proof of ownership of the land on which the site will be located.
3. The report for the design of the site required by NAC 444.708.
4. The plan for operating the site required by NAC 444.712.
5. The plan for closing the site, the plan for postclosure, and the documentation of the financial assurance required by NAC 444.704.

[6. A plan for monitoring water which is in compliance with NAC 444.683.]

Sec 5. NAC 444.711 is hereby amended to read as follows:

444.711 **[1. Except as otherwise provided in NAC 444.7481 and 444.7482,]** *The solid waste management authority may require* the owner or operator of a Class II site **[shall comply with the requirements for monitoring ground water by October 9, 1997, or if the site is new, before the receipt of waste, whichever is later.**

2. The owner or operator of a Class II site shall comply with the requirements of NAC 444.7484 to 444.7492, inclusive, once a ground monitoring system has been installed in compliance with NAC 444.7483.] to install:

- 1. A system for monitoring ground water which complies with the provisions of NAC 444.7483;**
or
- 2. A system for monitoring moisture in the unsaturated zone,**
if the solid waste management authority determines that the system is necessary to protect the waters of the state from degradation by pollutants or contaminants.

Sec. 6. NAC 444.632 is hereby repealed.

TEXT OF REPEALED SECTION

444.632 "Wet garbage" defined. "Wet garbage" means any combination of refuse and garbage which contains greater than 50 percent moisture.

END OF LCB R072-96 (PETITION 96012)

Petition 96012, (LCB R072-96) was amended and adopted by the Environmental Commission on September 10, 1996. R072-96 became effective upon filing with the Secretary of State on October 3, 1996, by the Legislative Counsel Bureau.

Codified 1/22/97